

REMARKS

Claim rejections under 35 USC 112

Claims 1-9 have been rejected under 35 USC 112, second paragraph, as being indefinite. In particular, the Examiner has noted that claim 1, from which claims 2-9 ultimately depend, recites the job ticket service and the bidding service being “capable of” performing functionality, instead of positively performing this functionality. Applicant has amended claim 1 so that the job ticket and the bidding services affirmatively perform their respective functionality, and therefore requests that this rejection be withdrawn.

Claim rejections under 35 USC 103 as to claims 1-2 and 6-7

Claims 1-2 and 6-7 have been rejected under 35 USC 103(a) as being unpatentable over Huberman (6,078,906) in view of Sklut (5,790,119). Claim 1 is an independent claim, from which claims 2 and 6-7 ultimately depend. Applicant submits that as amended, claim 1 is patentable over Huberman in view of Sklut, such that claims 2 and 6-7 are patentable over Huberman in view of Sklut as well.

Applicant has amended claim 1 as follows. The job ticket service stores a job ticket related to the job request “as an object on a storage.” (See, e.g., storage 73 of FIG. 6, on which “the job ticket service retains the job ticket,” as described on p. 20, ll. 13-15 and 27-29.) Furthermore, whereas before the job ticket was recited in a wherein clause as particularly being stored as an object comprising a job identifier, a service identifier, a task section, and a control data section, each of which having specific functionality, Applicant has reworded claim 1 so that the job ticket service stores a job identifier of the object, a service identifier of the object, a task section of the object, and a control data section of the object, each of which have particular functionality. Finally, the claimed invention now recites that “the job ticket as stored as the object [is] accessed by the client,” as described on page 20, lines 27-29 of the patent application as filed.

In rejecting the claimed invention over Huberman in view of Sklut, the Examiner found all the limitations of the claimed invention in these two references, except that the Examiner did not accord patentable weight to the job ticket stored as an object having a job identifier, a service identifier, a task section, and a control data section, each of which having specific functionality as recited in the claim. The Examiner's reasoning for not according patentable weight to the job ticket stored as an object having these particular attributes is as follows:

[T]he job-ticket is non-functional descriptive material. Nothing is done to the job ticket once it is stored and it has no effect on functionality. Thus, the manner in which the job ticket is stored (i.e., as an object) is irrelevant and since the specific attributes of the job ticket (i.e., job identifier, service identifier, task section, control data section) do not have functionality these features are not given patentable weight. See MPEP 2106.01 [R-5].

(Office action, p. 5) Applicant respectfully disagrees with the Examiner that the job ticket as stored as an object – and the various attributes of the job ticket – are not to be accorded patentable weight. Insofar as Applicant is correct, and the job ticket as stored as an object – and the various attributes of the job ticket – are to be accorded patentable weight, Huberman in view of Sklut does not teach, disclose, or suggest all the claimed limitations, such that the claimed invention is patentable over Huberman in view of Sklut. Applicant's contention that the job ticket as stored as an object – and the various attributes of the job ticket – are to be accorded patentable weight is now discussed in detail.

As an initial matter, the Examiner's reasoning for not according patentable weight to the job ticket stored as an object and having particular attributes – that “[n]othing is done to the job ticket once it is stored and it has no effect on functionality” – is not true as to the claimed invention as amended, in which “the job ticket as stored as the object [is] accessed by the client.” Therefore, for this reason alone, patentable weight is to be accorded to the job ticket stored as an object and having particular attributes. That is, using the Examiner's own reasoning as to the previously recited version of the claimed invention, the claimed invention as presently recited is to have all its claim limitations accorded patentable weight.

However, Applicant respectfully submits that the Examiner's reasoning process misconstrues section 2106.01 of the MPEP. The Examiner has stated that the job ticket, as stored as an object and having particular attributes, is "non-functional descriptive material." This contention is inconsistent with the precepts of section 2106.01 of the MPEP. This section of the MPEP particularly states the following (with citations omitted):

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions.") "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data.

. . . . When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

Therefore, the issue is whether a job ticket, stored as an object and having particular attributes, is functional descriptive material or non-functional descriptive material. The Examiner has stated that it is non-functional descriptive material, because "once it is stored . . . it has no effect on functionality." Applicant has described in the previous paragraph why this is no longer true, but, moreover, the Examiner's reasoning in this respect is inconsistent with how the MPEP itself divides descriptive material between non-functional and functional.

Applicant respectfully submits that following the MPEP compels the conclusion that a job ticket, stored as an object and having particular attributes, is indeed functional descriptive material and not non-functional descriptive material. The job ticket is stored as a particular type of data structure – an object – where this data structure has job identifier, service identifier, task section, and control data section attributes. The job identifier has the functionality of identifying the job request to which the job ticket is related. The service identifier of the object has the functionality of identifying the job ticket service storing the job ticket. The task section of the object has the

functionality of defining the job ticket. The control data section has the functionality of including at least programming to complete the job ticket. That is, each aspect of the object as which the job ticket is stored as particular *functionality*; each aspect of this object is not simply *non-functional* descriptive material.

Thus, as such, the job ticket, stored as an object and having particular attributes, is the epitome of what the MPEP calls “functional descriptive material,” as “consist[ing] of data structures and computer programs which impart functionality when employed as a computer component.” (Sec. 2106.01) The job ticket is stored as an object, which is a type of data structure. This data structure imparts functionality when employed as a computer component. The functionality of this data structure is described in the previous paragraph. The data structure is employed as a computer component: it is stored by the job ticket service and is accessed by the client. Indeed, the MPEP notes that “[w]hen functional descriptive material is recorded on some computer-readable medium, it becomes *structurally and functionally* interrelated to the medium.” (Id.) In the present invention, the job ticket is stored as an object *on a storage*, which is a computer-readable medium.

By comparison, the MPEP says that nonfunctional descriptive material includes “music, literary works, and a compilation or mere arrangement of data.” (Sec. 2106.01) The job ticket, stored as an object and having particular attributes, is of course not music or a literary work. The job ticket, stored as an object and having particular attributes, is also not just “a compilation or mere arrangement of data.” Rather, as noted above, the job ticket “impart[s] functionality when employed as a computer component.” (Id.) The job ticket is integral to and permeates the claimed invention. For instance, the job ticket relates to the job request that is submitted by the client, where a job identifier of the object as which the job ticket is stored identifies the job request, and indeed where a service identifier of this object identifies the job ticket service storing the job ticket. As another example, a notice of this job ticket is posted by a bidding service, where processors submit bids to complete the job request, and where the job ticket service stores

winning bid information with the job ticket itself. It is difficult to argue, in other words, that the job ticket, stored as an object and having particular attributes, is simply a “compilation or mere arrangement of data,” where it imparts functionality as employed within the claimed invention.

For these reasons, Applicant submits that the job ticket, stored as an object and having particular attributes, is functional descriptive material that is to be accorded patentable weight by the Examiner. Section 2106.01 of the MPEP only instructs that “USPTO personnel should determine whether the claimed *nonfunctional* descriptive material be given patentable weight.” By comparison, claimed *functional* descriptive material has to be given patentable weight, insofar as “[w]hen functional descriptive material is recorded on some computer-readable medium,” like a storage in the claimed invention, “it becomes *structurally and functionally* interrelated to the medium.” (Id.) As such, “USPTO personnel must consider all claim limitations when determining patentability of an invention over the prior art.” (Id.) Insofar as Huberman in view of Sklut does not teach, disclose, or suggest a job ticket stored as an object and having particular attributes as recited in the claimed invention, the claimed invention is patentable over Huberman in view of Sklut.

Claim rejections under 35 USC 103 as to claims 3-5 and 8-21

Claims 3-5 and 9-21 have been rejected under 35 USC 103(a) as being unpatentable over Huberman in view of Sklut, and further in view of Gindlesperger (6,397,197). Claim 8 has been rejected under 35 USC 103(a) as being unpatentable over Huberman in view of Sklut, and further in view of Meltzer (6,125,391). Claims 3-5 and 9 are dependent claims depending from claim 1, and therefore are patentable at least insofar as claim 1 is. Claims 10, 17, and 21 are independent claims, from which the remaining claims rejected under 35 USC 103(a) ultimately depend. Claims 10, 17, and 21 each have similar limitations as claim 1 does. Therefore, claims 10, 17, and 21 are patentable over Huberman in view of Sklut, and further in view of Gindlesperger and/or Meltzer, for

at least the same reasons as to why claim 1 is patentable, and, as such, the claims depending from claims 10, 17, and 21 are patentable as well.

Conclusion

Applicants have made a diligent effort to place the pending claims in condition for allowance, and request that they so be allowed. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Mike Dryja, Applicant's representative, at 425-427-5094, so that such issues may be resolved as expeditiously as possible. For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,



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